

**THE
REPORTERS
COMMITTEE
FOR
FREEDOM
OF THE
PRESS**

Suite 1910
1101 Wilson Blvd.
Arlington, VA 22209
(703) 807-2100

•
rcfp@rcfp.org
http://www.rcfp.org/rcfp

Jane E. Kirtley
Executive Director

STEERING COMMITTEE

- GAIL APPELSON
Reuters America Inc.
- CHARLES R. BABCOCK
The Washington Post
- CHIP BOK
Akron Beacon Journal
- GLORIA BORGER
U.S. News & World Report
- TOM BROKAW, *NBC News*
- EARL CALDWELL
Syndicated columnist
- WALTER CRONKITE, *CBS News*
- MARY CROWLEY
Philips Business Information, Inc.
- GARY DECKELNICK
Asbury Park Press
- SARA FRIED
Congressional Quarterly
- FRED GRAHAM, *Court TV*
- JOHN C. HENRY
Houston Chronicle
- NAT HENTOFF
The Village Voice
- CARL HIAASEN
The Miami Herald
- STEVEN A. HOLMES
The New York Times
- KAREN GRAY HOUSTON
Fox News
- ALBERT HUNT
The Wall Street Journal
- PETER JENNINGS, *ABC News*
- JACK C. LANDAU, *free-lance*
- CHARLES J. LEWIS
Herald Newspapers
- TONY MAURO, *USA Today*
- STEVE MCGONIGLE
The Dallas Morning News
- BROCK S. MEEKS
WNNB
- WILSON J. MINOR
Factual Reporting Service
- DAN RATHER, *CBS News*
- DAVID ROSENBAUM
The New York Times
- CRISTINE RUSSELL
The Washington Post
- JOHN SHARR
The Associated Press
- CAROLE SIMPSON, *ABC News*

*attribution appear only
for purpose of identification.*

December 9, 1997

DOCKET FILE COPY ORIGINAL

Office of the Secretary
Federal Communications Commission
Washington, DC 20554

re: ET Docket No. 97-206

Dear Sirs:

Enclosed please find our reply comments in response to an initial response to an invitation by the FCC for comments published October 9, 1997, at 62 Fed. Reg. 52,677, submitted by the Center for Media Education et al.

We have enclosed one original and nine copies, including four required copies and five additional copies for distribution to the commissioners.

Thank you for your attention.

Sincerely,

Bryan Whitehead
Legal Fellow

No. of Copies rec'd
List ABCDE

0+9

DOCKET FILE COPY ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

LC1217

In the Matter of

Technical Requirements to Enable
Blocking of Video Programming
based on Program Ratings

Implementation of Sections 551(c),
(d) and (e) of the Telecommunications
Act of 1996

ET Docket No. 97-206

REPLY COMMENTS OF
THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS

The Reporters Committee for Freedom of the Press submits these reply comments in response to an initial response to an invitation by the FCC for comments published October 9, 1997, at 62 *Fed. Reg.* 52,677, submitted by the Center for Media Education et al. The Center suggested that the FCC adopt technical requirements that allow the V-Chip to be used to block unrated programming, including news and sports programs.

The Reporters Committee is a voluntary, unincorporated association of news editors and reporters dedicated to defending the First Amendment rights of the print and broadcast media.

I. The Purpose of These Reply Comments

The Reporters Committee takes no position on the merits of the "voluntary" ratings system currently in use by the broadcasting and cable industries, except to express support for the specific exclusion of news programming from the ratings scheme. Further, the Committee has already expressed opposition to any ratings system that creates a separate ratings classification for news or otherwise subjects news programming to

blocking.¹

We believe any discussion regarding the inclusion or exclusion of news from ratings systems should take place in response to FCC requests for comments regarding the implementation of ratings systems, not in response to a request for comments regarding how manufacturers of television receivers should implement blocking technology in their products. Further, we wish to express our reservations regarding the comment filed by the Center for Media Education et al. suggesting that because "news and sports programs are exempt from the ratings requirement" and "[s]ome parents may wish to prevent their children from viewing these programs," the V-Chip should be designed in such a way as to "give parents the ability to block unrated programming."²

II. The Debate About Ratings Implementation Is Not Appropriate in Response to this Notice of Proposed Rule Making

The Reporters Committee was under the impression that the FCC intended the Notice of Proposed Rule Making at 62 *Fed. Reg.* 52,677 to "begin the process of requiring television manufacturers to include blocking technology in their television receivers and to ensure that any ratings information that is provided with video programming is transmitted to the television

¹See *In the Matter of Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, Surreply Comments of the Reporters Committee for Freedom of the Press, June 16, 1997.

²*In the Matter of Technical Requirements To Enable Blocking of Video Programming Based on Program Ratings*, ET Docket No. 97-206, Comments of the Center for Media Education et al., at 4.

receiver intact and without disruption by any broadcast, cable television, or other television program distribution services."³

What relevance, if any, the debate over the relative merits of blocking unrated programming has to the question of implementing blocking technology is unclear to us.

III. Blocking Unrated Programming Would Diminish the Flow of Important, Constitutionally-Protected Information to the Public

Though we express no opinion here about whether or not blocking technology should "screen out" programming from those who choose to opt out of industry ratings schemes, the FCC must not block news programs merely because news has not been subjected to a particular rating system.

Depending on the ratings system or systems adopted, a blanket "block" on all unrated programming could prevent children from viewing news, sports, and other educational and informational programming. Television journalists would then be placed in the untenable position of having to choose between censoring coverage of a story in order to bring that story into conformity with some standard imposed by a ratings system or distributing the story without a rating of any kind, thus making it vulnerable to blocking.

Forcing journalists to decide whether the news they report will be either rated or blocked could effectively act as a prior restraint or outright ban on accurate reporting of current events, depriving adults of practical access to this important

³62 Fed. Reg. at 52,679.

information. The Supreme Court has found that when laws deny adults their free speech rights by allowing them to read, watch or hear only what is acceptable for children, the laws will fail to pass constitutional muster even if the intent is to achieve the laudable purpose of protecting children from the alleged harmful effects of that material.⁴

Although some adult viewers may wish to shield children from the strong words and images that may appear in news programming, they do not want news broadcasts to be censored or sugar-coated.⁵ In addition, television can be a powerful educational tool, and parents may wish to expose their children to the news as a vehicle for exploring such issues as gang violence, teenage pregnancy and domestic violence. This legitimate use of television news would be thwarted if media organizations air diluted accounts of news stories depicting unpleasant events, or decline to report on them at all, for fear of having to either conform the ensuing story to the standards of a ratings scheme or sacrifice the viewers who systematically block out all unrated programs.

IV. Conclusion

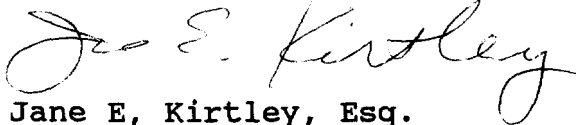
We believe that consideration of the blocking of unrated programming is inappropriate at this time. To the extent that this issue must be considered in the implementation of V-Chip

⁴*Sable Communications of California, Inc. v. FCC*, 352 U.S. 380, 381 (1989).

⁵Howard Kurtz, "Family-Sensitive" News Programs Tone Down Coverage of Violence, *The Washington Post*, July 19, 1994, at B1.

manufacturing, we believe any attempt to implement a technology designed to block news programming would seriously diminish the flow of important, constitutionally-protected information to the public.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jane E. Kirtley".

Jane E, Kirtley, Esq.
Executive Director

Bryan Whitehead, Esq.
Legal Fellow

Reporters Committee for Freedom of the press
1101 Wilson Blvd., Ste. 1910
Arlington, VA 22209
703-807-2100

December 9, 1997